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10/551,322

09/22/2005

Leonardus Matheus Marie Veugen

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PHILIPS INTELLECTUAL PROPERTY & STANDARDS

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BRIARCLIFF MANOR, NY 10510

EXAMINER

THOMAS, SHANE M

ART UNIT

PAPER NUMBER

2186

MAIL DATE

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04/30/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | | |
|------------------------------|--------------------------------------|---|--|
| Office Action Summary | Application No. 10/551,322 | Applicant(s) VEUGEN, LEONARDUS MATHEUS MARIE | |
| | Examiner SHANE M. THOMAS | Art Unit 2186 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 September 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 September 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date <u>9/22/2005</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This Office action is responsive to the application filed 9/22/2005. Claims 1-14 are presented for examination and are currently pending.

In the response to this Office action, the Examiner politely requests that support be shown for language added to any original claims on amendment and any new claims. That is, indicate support for newly added claim language by specifically pointing to page(s) and line numbers in the specification and/or drawing figure(s). This will assist the Examiner in prosecuting this application.

Priority

Priority to PCT/IB2004/050305 filed 3/22/2004 and European Patent Office Application 03100797.4 filed 3/27/2004 has been acknowledged.

Specification

The specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

Claim Objections

Claims 1-14 are objected to because of the following informalities:

As per claims 1,5, and 11, the Examiner recommends amending the term “HDD” to "hard disk drive (HDD)" in order to properly define the acronym in the claim.

As per claims 5 and 11, the Examiner recommends amending the term “ODD” to "optical disk drive (ODD)" in order to properly define the acronym in the claim.

As per claims 6-10, the term --the system-- should be amended to --the data processing system-- to maintain coherency throughout the claims.

As per claim 9, the claim should specify what is actually being considered to be a “PC” and be amended to state “wherein the data processing system is a PC.”

As per claim 10, the claim should specify what is actually being considered to be a “CE” and be amended to state “wherein the data processing system is a CE.”

As per claim 10, the Examiner recommends amending the term “CE” to “consumer electronics (CE)” order to properly define the acronym in the claim.

Claims 2-4 and 12-14 are objected to as being dependent upon an objected base claim.

Appropriate correction is required.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 11-14 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

As per claim 11, the claim appears to be directed to software, per se, as the "software for being installed on a data processing system" is not claimed as being contained on a computer readable medium. "When functional descriptive material is recorded on some computer-readable medium, it becomes structurally and functionally interrelated to the medium and will be statutory in most cases since use of technology permits the function of the descriptive material to be realized." MPEP §2106.01

Claims 11-14 are rejected under 35 U.S.C. 101 because the claimed recitation of a use, without setting forth any steps involved in the process, results in an improper definition of a process, i.e., results in a claim which is not a proper process claim under 35 U.S.C. 101. See for example *Ex parte Dunki*, 153 USPQ 678 (Bd.App. 1967) and *Clinical Products, Ltd. v. Brenner*, 255 F. Supp. 131, 149 USPQ 475 (D.D.C. 1966).

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 11-14 provide for the use of software being installed, but, since the claim does not set forth any steps involved in the method/process of installing, it is unclear what method/process applicant is intending to encompass. A claim is indefinite where it merely recites a use without any active, positive steps delimiting how this use is actually practiced.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Osawa et al. (U.S. Patent No. 5,930,367) in view of Applicant's Admitted Prior Art (herein APA).

As per claims 1, 5, and 11, Osawa teaches:

A method of enabling to archive content on an optical disk [1/41-50], the method comprising enabling to record segments of the content on a HDD ([1/41-50] - data segments from a DVD can be copied to a hard drive) to a formatting standard of the optical disk (data is recorded to a hard drive in order to be copied to a subsequent optical disc to make an exact copy, thereby the formatting standard is maintained on the hard drive). Osawa does not specifically

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teach recording segments in a **multiplexed manner**. APA teaches that in order to produce a DVD optical disc, the data must be recorded in a multiplexed manner (page 1, lines 22-23). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have combined the DVD duplication method of Osawa with the copying in a multiplexed manner in order to have made the copying to the hard drive from the optical disc in a manner identical to how the DVD will be written to the identical optical disc. Such a system would have produced the predictable result of copying the data from a DVD to the hard drive in a manner in which the data was written to the optical disc - in a multiplexed manner.

Further regarding claim 5, Osawa teaches an optical disc drive (ODD) as a DVD can be duplicated [1/41-50].

As per claims 2,6, and 12, modified Osawa teaches **reserving an additional segment for a NavPack when recording on the HDD** (APA teaches that DVD discs have NavPacks stored thereon - page 1, line 21). Thus it would have been obvious to one having ordinary skill in the art to have seen that if the duplication system of Osawa can create an exact duplicate of a DVD discs onto another disc through storage of the data of the original DVD onto the hard drive, that the duplication system of Osawa would have reserved an additional segment for storage onto the hard drive for a NavPack that was stored on the original DVD and to be stored on the new DVD.

As per claims 3,7, and 13, modified Osawa teaches **extracting metadata** (NavPack) **from the content** (the Examiner is considering the entirety of the original DVD of Osawa to be the "content") **prior to recording on the HDD and using the additional segment to store the metadata** (the NavPack data, which is metadata for the video/audio data of the DVD as it contains information about how to navigate from portion of video/audio sections of the DVD as

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is the definition of the NavPacks, is extracted from the original DVD {to make the identical DVD copy} as it is to be stored on the HDD and stores the NavPack of the original disc onto the additional segment that is to be used to store the NavPack). In other words, as all packets of data from the original DVD, including NavPacks, as the DVD is an exact duplicate of the original [1/41-50], are stored to the HDD of Osawa, it is obvious that the NavPack would have been stored in its own segment on the hard drive.

As per claims 4,8, and 14, modified Osawa teaches **removing the metadata** (NavPack) **from the additional segment prior to archiving to the optical disk** (NavPack data is removed from the HDD of Osawa as it is copied from the HDD to the new DVD as taught in [1/41-50]).

As per claim 9, modified Osawa teaches the system **being a PC** (APA - page 1, line 29).

As per claim 10, modified Osawa teaches the system **being a CE apparatus** (APA - page 1, line 24).

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Geiger et al. (U.S. Patent Application Publication No. 2003/0221119) - ¶26 - and Haddad (U.S. Patent Application Publication No. 2003/0044166) - ¶70 - teaches multiplexed data being stored on a hard drive.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shane M Thomas whose telephone number is (571) 272-4188.

The examiner can normally be reached M-F 8:30 - 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Matt M Kim can be reached at (571) 272-4182. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Shane M. Thomas/
Patent Examiner

28 April 2008